

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PNC BANK, NATIONAL ASSOCIATION,)
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Plaintiff,)
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vs.) No. 4:12CV02112 AGF
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PHILLIP D. SCHMIDT, JR.,)
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Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's motion for default judgment filed on January 9, 2014 against Defendant Phillip D. Schmidt. Plaintiff alleged in its complaint, filed on November 12, 2012, that Defendant defaulted on a promissory note executed in favor of Plaintiff's predecessor in interest. The note is attached to the complaint. Plaintiff alleged that the outstanding balance due on the note as of November 12, 2012, was the principal sum of \$396,715.13, plus interest in the sum of \$34,036.43, and late fees of \$950.00, for a total, exclusive of attorney's fees and costs, in the sum of \$431,701.56. The Clerk of Court entered default against Defendant on December 14, 2012. Following the sale of certain properties, the proceeds of which were applied to the debt, Plaintiff now seeks default judgment against Defendant in the amount of the remaining indebtedness as of January 3, 2014, in the total amount of \$254,842.83; plus attorney's fees and expenses totaling \$8,835.80, recoverable under the terms of the Note; and interest accruing at the rate of \$24.31 per diem from January 3, 2014. Defendant has not responded to the motion.

Where default has been entered, the "allegations of the complaint, except as to the

amount of damages are taken as true.” *Brown v. Kenron Aluminum & Glass Corp.*, 477 F.2d 526, 531 (8th Cir. 1973); *see also Jenkins v. E. Asset Mgmt., LLC*, No. 4:08-CV-1032 CAS, 2009 WL 2488029, at *2 (E.D. Mo. Aug. 12, 2009). Here, taking Plaintiff’s allegations in the complaint as true, except for those allegations as to the amount of damages, the Court concludes that Plaintiff is entitled to default judgment against Defendant. With respect to damages, Plaintiff has provided documentation and evidence supporting its entitlement to the amounts sought.

Upon review of the record,

IT IS HEREBY ORDERED that Plaintiff’s motion for default judgment is **GRANTED** in the amount of \$254,842.83; plus \$8,825.50 in attorney’s fees and expenses; and interest at the rate of \$24.31 per diem from January 3, 2014.

IT IS FURTHER ORDERED that the Clerk’s Office is directed to serve a copy of this Memorandum and Order and the accompanying Judgment on Defendant Phillip D. Schmidt, Jr., at the address of service employed by the process server.

A separate Judgment shall accompany this Memorandum and Order.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 31st day of January, 2014